



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,998	01/17/2006	Greg Collier	19020	8073
272 7590 03/25/2008 SCULLY, SCOTT, MURPHY & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER GAMETT, DANIEL C	
			ART UNIT 1647	PAPER NUMBER
			MAIL DATE 03/25/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/541,998

Applicant(s)

COLLIER ET AL.

Examiner

DANIEL C. GAMETT

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 2, and claims 1 and 11, in part, drawn to an isolated nucleic acid molecule comprising a sequence of nucleotides encoding or complementary to a sequence encoding a molecule or derivative or homolog of the nucleotide sequence as set forth in SEQ ID NO:1.

Group 2, claim(s) 3, and claims 1 and 11, in part, drawn to an isolated nucleic acid molecule comprising a sequence of nucleotides encoding or complementary to a sequence encoding a molecule or derivative or homolog of the nucleotide sequence as set forth in SEQ ID NO:2.

Group 3, claim(s) 4, and claims 1 and 11, in part, drawn to an isolated nucleic acid molecule comprising a sequence of nucleotides encoding or complementary to a sequence encoding a molecule or derivative or homolog of the nucleotide sequence as set forth in SEQ ID NO:3.

Group 4, claim(s) 5, and claims 1 and 11, in part, drawn to an isolated nucleic acid molecule comprising a sequence of nucleotides encoding or complementary to a sequence encoding a molecule or derivative or homolog of the nucleotide sequence as set forth in SEQ ID NO:4.

Group 5, claim(s) 6, and claims 1 and 11, in part, drawn to an isolated nucleic acid molecule comprising a sequence of nucleotides encoding or complementary to a sequence encoding a molecule or derivative or homolog of the nucleotide sequence as set forth in SEQ ID NO:5.

Group 6, claim(s) 7, and claims 1 and 11, in part, drawn to an isolated nucleic acid molecule comprising a sequence of nucleotides encoding or complementary to a sequence encoding a molecule or derivative or homolog of the nucleotide sequence as set forth in SEQ ID NO:6.

Group 7, claim(s) 8, and claims 1 and 11, in part, drawn to an isolated nucleic acid molecule comprising a sequence of nucleotides encoding or complementary to a sequence encoding a molecule or derivative or homolog of the nucleotide sequence as set forth in SEQ ID NO:7.

Art Unit: 1647

Group 8, claim(s) 9, and claims 1 and 11, in part, drawn to an isolated nucleic acid molecule comprising a sequence of nucleotides encoding or complementary to a sequence encoding a molecule or derivative or homolog of the nucleotide sequence as set forth in SEQ ID NO:8.

Group 9, claim(s) 10, and claims 1 and 11, in part, drawn to an isolated nucleic acid molecule comprising a sequence of nucleotides encoding or complementary to a sequence encoding a molecule or derivative or homolog of the nucleotide sequence as set forth in SEQ ID NO:9.

Group 10, claim(s) 13, and claims 11, 12, 22, and 26 in part, drawn to an isolated protein encoded by a nucleic acid molecule as set forth in SEQ ID NO:1 or a nucleotide sequence having at least about 40% identity to SEQ ID NO:1 or a nucleotide sequence capable of hybridizing to SEQ ID NO:1 or its complementary form under low stringency conditions, and to methods of treating a mammal, said method comprising administering to said mammal said isolated protein.

Group 11, claim(s) 14, and claims 11, 12, 22, and 26 in part, drawn to an isolated protein encoded by a nucleic acid molecule as set forth in SEQ ID NO:2 or a nucleotide sequence having at least about 40% identity to SEQ ID NO:2 or a nucleotide sequence capable of hybridizing to SEQ ID NO:2 or its complementary form under low stringency conditions, and to methods of treating a mammal, said method comprising administering to said mammal said isolated protein.

Group 12, claim(s) 15, and claims 11, 12, 22, and 26 in part, drawn to an isolated protein encoded by a nucleic acid molecule as set forth in SEQ ID NO:3 or a nucleotide sequence having at least about 40% identity to SEQ ID NO:3 or a nucleotide sequence capable of hybridizing to SEQ ID NO:3 or its complementary form under low stringency conditions, and to methods of treating a mammal, said method comprising administering to said mammal said isolated protein.

Group 13, claim(s) 16, and claims 11, 12, 22, and 26 in part, drawn to an isolated protein encoded by a nucleic acid molecule as set forth in SEQ ID NO:4 or a nucleotide sequence having at least about 40% identity to SEQ ID NO:4 or a nucleotide sequence capable of hybridizing to SEQ ID NO:4 or its complementary form under low stringency conditions, and to methods of treating a mammal, said method comprising administering to said mammal said isolated protein.

Group 14, claim(s) 17, and claims 11, 12, 22, and 26 in part, drawn to an isolated protein encoded by a nucleic acid molecule as set forth in SEQ ID NO:5 or a nucleotide sequence having at least about 40% identity to SEQ ID NO:5 or a nucleotide sequence capable of hybridizing to SEQ ID NO:5 or its complementary form under low stringency conditions, and to methods of treating a mammal, said method comprising administering to said mammal said isolated protein.

Group 15, claim(s) 18, and claims 11, 12, 22, and 26 in part, drawn to an isolated protein encoded by a nucleic acid molecule as set forth in SEQ ID NO:6 or a nucleotide sequence having at least about 40% identity to SEQ ID NO:6 or a nucleotide sequence capable of hybridizing to SEQ ID NO:6 or its complementary form under low stringency conditions, and to methods of treating a mammal, said method comprising administering to said mammal said isolated protein.

Art Unit: 1647

Group 16, claim(s) 19, and claims 11, 12, 22, and 26 in part, drawn to an isolated protein encoded by a nucleic acid molecule as set forth in SEQ ID NO:7 or a nucleotide sequence having at least about 40% identity to SEQ ID NO:7 or a nucleotide sequence capable of hybridizing to SEQ ID NO:7 or its complementary form under low stringency conditions, and to methods of treating a mammal, said method comprising administering to said mammal said isolated protein.

Group 17, claim(s) 20, and claims 11, 12, 22, and 26 in part, drawn to an isolated protein encoded by a nucleic acid molecule as set forth in SEQ ID NO:8 or a nucleotide sequence having at least about 40% identity to SEQ ID NO:8 or a nucleotide sequence capable of hybridizing to SEQ ID NO:8 or its complementary form under low stringency conditions, and to methods of treating a mammal, said method comprising administering to said mammal said isolated protein.

Group 18, claim(s) 21, and claims 11, 12, 22, and 26 in part, drawn to an isolated protein encoded by a nucleic acid molecule as set forth in SEQ ID NO:9 or a nucleotide sequence having at least about 40% identity to SEQ ID NO:9 or a nucleotide sequence capable of hybridizing to SEQ ID NO:9 or its complementary form under low stringency conditions, and to methods of treating a mammal, said method comprising administering to said mammal said isolated protein.

Groups 19-27, claim(s) 23, 25, 26, and 30, each in part, drawn to compositions and methods for modulating, in a mammal, the expression of one of AGT-701, AGT-702, AGT-704, AGT-705, AGT-706, AGT-707; AGT-708, AGT-709 or AGT-710:

Group 19 is drawn to a composition and method for modulating expression of AGT-701.
Group 20 is drawn to a composition and method for modulating expression of AGT-702.
Group 21 is drawn to a composition and method for modulating expression of AGT-704.
Group 22 is drawn to a composition and method for modulating expression of AGT-705.
Group 23 is drawn to a composition and method for modulating expression of AGT-706.
Group 24 is drawn to a composition and method for modulating expression of AGT-707.
Group 25 is drawn to a composition and method for modulating expression of AGT-708.
Group 26 is drawn to a composition and method for modulating expression of AGT-709.
Group 27 is drawn to a composition and method for modulating expression of AGT-710.

Groups 28-36, claim(s) 24 and 30, each in part drawn to compositions and methods for modulating, in a mammal, the activity of one of AGT-701, AGT-702, AGT-704, AGT-705, AGT-706, AGT-707; AGT-708, AGT-709, or AGT-710:

Group 28 is drawn to a composition and method for modulating activity of AGT-701.
Group 29 is drawn to a composition and method for modulating activity of AGT-702.
Group 30 is drawn to a composition and method for modulating activity of AGT-704.
Group 31 is drawn to a composition and method for modulating activity of AGT-705.
Group 32 is drawn to a composition and method for modulating activity of AGT-706.
Group 33 is drawn to a composition and method for modulating activity of AGT-707.
Group 34 is drawn to a composition and method for modulating activity of AGT-708.

Art Unit: 1647

Group 35 is drawn to a composition and method for modulating activity of AGT-709.
Group 36 is drawn to a composition and method for modulating activity of AGT-710.

Groups 37-45 claim(s) 31, drawn to methods for detecting AGT-701, AGT-702, AGT-704, AGT-705, AGT-706, AGT-707 AGT-708, AGT-709 and/or AGT-710, respectively.

2. The inventions listed as Groups 1-45 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Within each of set of Groups 1-9, 10-18, 19-27, 28-36, and 37-45, each product or method recites a specific sequence or gene product that is a special technical feature not found or required by any other member of the set.

Groups 1-9 recite the special technical feature, isolated nucleic acid molecule, which is not required by the methods or the products of Groups 10-45.

Groups 10-18 recite the special technical feature, an isolated protein, which is not required by the methods or the products of Groups 1-9 and 19-45.

Groups 19-27 recite the special technical feature, modulating, in a mammal, the expression of a gene product, which is not required by the methods or the products of Groups 1-18 or Groups 28-45.

Groups 28-36 recite the special technical feature, modulating, in a mammal, the activity of a gene product, which is not required by the methods or the products of Groups 1-27 or 37-45.

Groups 37-54 recite the special technical feature, detecting a gene product, which is not required by the methods or the products of Groups 1-36.

3. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include

(i) an election of an invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Art Unit: 1647

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel C. Gamett, PhD., whose telephone number is (571)272-1853. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath N. Rao can be reached on 571 272 0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel C Gamett/
Examiner, Art Unit 1647
28 March 2008